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SENSITIVE  
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DEPT FOR EUR/CE/DMORRIS  
DEPT PASS USTR FOR LYANG  
COMMERCE FOR 4232/ITA/MAC/EUR/OECA/MROGERS,JBURGESS,CRUSNA K  
USDA for FAS/OSTA BMACKE; FAS/OCRA DSALMON, DSEIDBAND;  
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TAGS: [ETRD](#) [EINV](#) [ECON](#) [BEXP](#) [PL](#)

SUBJECT: EXPERTS LEVEL ECONOMIC/COMMERCIAL DIALOGUE(ECD) CONTINUES  
IN WARSAW, SOME PROGRESS ON LOGSTANDING ISSUES

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#### Summary

11. Commerce/ITA DAS for Europe Paul Dyck held a series of meetings Oct. 1-2 in Warsaw with U.S. industry and the Ministry of Economy as a part of continuing our Bilateral Economic and Commercial Dialogue (ECD) with the Polish government. He was accompanied by Commerce/ITA Director for European Country Affairs Jay Burgess. Prior to meeting with his counterpart at the Ministry of Economy, Dyck met with local U.S. innovative pharmaceutical companies who were members of the American Chamber of Commerce "LAWG". He also met with local Cargill representatives regarding the delay in payment of an arbitration award they won in March against the GOP and with members of the Board of the American Chamber of Commerce. The Embassy requested a separate meeting for Dyck with Deputy Minister of Health Twardowski to discuss pharma issues, but the Ministry did not grant this meeting. The Embassy then requested a meeting with Ministry of Health (MOH) Drug Policy Director Falek, but was also refused. Falek was supposed to be at the Ministry of Economy meeting, but he did not show up. [NOTE: subsequently, Deputy Minister Twardowski did travel to Washington the week of Oct. 6-10 where he did meet with USDOC Deputy U/S O'Neill, HHS Deputy Secretary Troy, and State DAS Murphy. END NOTE]

12. Undersecretary of State Marcin Korolec chaired the meeting on the Polish side at the Ministry of Economy. He was accompanied by several other representatives from his ministry. Both Dyck and Korolec noted the overall positive nature of trade and investment relations between the United States and Poland. DAS Dyck assured the Polish side of USDOC's continuing commitment to the ECD process and to working with the Ministry of Economy into the new year. There was good news on the Dell land acquisition case, with a final resolution almost at hand, but some disappointing news on the Cargill arbitration case, as the U.S. side was informed that the Ministry of Economy would officially appeal the award and, thus, delay a final payout. There was much discussion on energy security issues, with the Poles expressing some pessimism on how fast the new nuclear power project for the Ignalina facility in Lithuania might go forward. The Polish side, as expected, raised the issue of access for their poultry to the U.S. market and the U.S. side explained that it was not prepared to respond at this time. The U.S. side also raised our pharma issues, advocacy for U.S./Canadian joint venture Europort, Motorola Tetra, as well as other issues such as GMOs and Poland's anti-biotechnology voting record in the EU and alcohol labeling, with little Polish comment. Discussions were cordial and productive, with both sides agreeing to continue the ECD

on a larger scale in 2009 with fuller inter-agency participation. Commerce officials invited either U/S Korolec or Director Tomasz Ostaszewicz to come to Washington in the first quarter of 2009 for that purpose.

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Pharmaceutical Market Access and Lack of Consultation  
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13. At Dyck's meeting with the LAWG, the U.S. company representatives raised the new issue of a pending Health Ministry regulation that would restrict sales calls by drug company staff to outside of doctors' office hours. While this affected all drug company sales staff equally, the LAWG explained that it hurt them disproportionately because their members needed more time with and repeated calls on doctors to educate them about their innovative drugs, whereas Polish industry, all of whom are generic producers, dealt mainly with wholesalers and drug stores. LAWG claimed that the industry employs 12,000 sales staff in Poland and this new regulation would disrupt their operation and could lead to layoffs. There was virtually no consultation with industry and minimal lead time on implementation, LAWG claimed, since the new regulation would take effect in mid-November. The LAWG also raised the longstanding issue of access to the reimbursement list, lack of transparency in this process and lack of access to the Health Ministry for its members. Dyck used this opportunity to again ask for specific examples of delays in applications to the reimbursement list.

14. At the formal meeting with the Ministry of Economy, Dyck duly raised the new issue regarding the Health Ministry regulation restricting sales calls and the continuing issue of the reimbursement list and access. Undersecretary of State Korolec noted our concern, but since there was no Health Ministry representative, there was no discussion.

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Advocacy for U.S. Companies  
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15. At the Ministry of Economy meeting DAS Dyck formally raised three U.S. company advocacy cases: Dell, Cargill and Europort. On Dell, the Ministry informed us that the Council of Ministers had approved increasing the amount of state aid to Dell to PLN 36 million which was designed to close the gap between the price for the land that Dell was willing to pay and the price demanded by the Polish side. Since this involved additional state aid payments under EU rules, there remained a final approval necessary from the European Commission, which was expected by Oct. 8. Dyck thanked the Polish Government for its sustained effort to bring this longstanding case to a successful conclusion. On Cargill, the Poles tried to convey as a positive step forward the fact that the Polish Government had formally decided to appeal the arbitration award in Paris and would thus begin negotiations with Cargill. Burgess interjected that while Poland certainly had the right to appeal, grounds for such an appeal were very narrow, that the costs to Poland of an appeal would be substantial (legal fees, interest, and penalties), and that the USG expected Poland to pay the award. Korolec explained that the Polish Government bureaucratically had to appeal the decision to demonstrate that it had exhausted all avenues. On Europort, Korolec responded that the Ministry of Treasury, the appropriate interlocutor in this matter, had agreed to a meeting with the U.S. and Canadian Embassies on October 8. (Comment: this meeting did take place on October 8 with the U.S. Embassy DCM, Commercial Counselor and Canadian Embassy Senior Trade Commissioner, and the Deputy Minister of Treasury Jan Bury and the head of the Port of Gdansk Management Board. There was no progress on bringing the two sides together for a settlement and it was clear that the Polish Government would let the on-going process in Polish arbitration courts come to a close and that it expected to win. End Comment)

16. Dyck also raised the longstanding Motorola Tetra project for emergency communication systems for the Ministry of Interior. He expressed again Motorola's desire to participate in this project in

any way. Korolec took note.

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Energy Security  
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¶17. Maciej Wozniak, Director of the Oil and Gas Department at the Ministry of Economy, and soon to be the energy advisor to the Prime Minister, briefly presented some natural gas projects. He first provided an update on the long-planned LNG terminal on the Baltic coast at Swinoujscie. Gaz System, a 100% state-owned company, would now have the lead in the project, while the former owner of the project, Polish Oil and Gas, would still remain a partner. Planning for the project was to be completed by the end of the year with construction commencing some time in 2009. The U.S.-Canadian firm SNC Lavilan had won the contract for construction. Wozniak also mentioned well-known plans for a natural gas pipeline from Norway to Denmark, through Germany and then to Poland. Norwegian firm Statoil needed to agree to sell the gas for this proposed pipeline, but they had not formally done this. The Poles asked our help in encouraging Statoil to do so.

¶18. Dyck asked about the status of the planned project to build a new nuclear electric power plant at Ignalina in Lithuania after the existing nuclear plant was finally decommissioned in 2009. To date the GOP has been very involved in this project with Lithuania, Estonia and Latvia, and related plans to build an electric power bridge between Poland and Lithuania. Poland would like to take up to 1000 megawatts from the new plant and would have to invest about 2 billion Euro in the power bridge and another 8 billion Euro for up to 600 km of new power distribution lines. That being said, Korolec added that he believed that the new plant might not be built because the intentions of the Baltic countries did not seem clear. He suggested that they might want to prolong the operation of the existing nuclear power plant at Ignalina beyond 2009. (Comment: this would obviously run afoul of EU requirements to decommission the old plant. End comment.) He also noted possible Russian plans to build a new nuclear electric power plant in the Kaliningrad region adjacent to Poland, with construction possibly starting in three years. He hastened to add, however, that a new Ignalina plant remained very important to Poland as a cheap source of electricity and as a way to reduce their own CO2 emissions.

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Poultry and Other Agricultural Issues  
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¶19. Korolec raised the issue of access of Polish poultry products to the U.S. market and gave the U.S. side a non-paper on this subject. Dyck responded that the USG was not at this time in a position to give a response on this issue and said that we expected to be able to respond at the next full ECD meeting in 2009. Non-paper was conveyed to USDA via the Office of Agricultural Affairs, Embassy Warsaw.

¶10. Dyck then raised the issue of the Polish voting record in the EU on matters related to Genetically Modified Organisms in agriculture. He explained that Polish votes against new varieties of soybeans as feed could hurt the Polish livestock industry in 2009 since there would not be enough animal feed to satisfy demand. Dyck also raised the issue of a new Polish regulation requiring a very large warning label on bottles for alcoholic beverages and that there had been no consultation with industry regarding this significant regulatory change.

¶11. As our allotted time for the meeting was running out, Korolec simply took note of the above issues.

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